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C O N F I D E N T I A L STATE 304343

E.O. 11652: GDS

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SUBJECT: BACKGROUND ON SAFEGUARDS

REF: NEW DELHI 17432

1. FOLLOWING IS INFORMATION PAPER REQUESTED BY EMBASSY FOR USE AS SUGGESTED IN REFTEL.
2. A BASIC PRINCIPLE OF THE ATOMS-FOR-PEACE PROGRAM WAS THAT INTERNATIONAL COOPERATION IN THE DEVELOPMENT OF CIVIL USES OF ATOMIC ENERGY CARRIED WITH IT OBLIGATIONS TO DEMONSTRATE TO THE INTERNATIONAL COMMUNITY THAT THERE WAS NO DIVERSION TO MILITARY PURPOSES. WITHOUT SUCH DEMONSTRATION, SUSPICIONS WOULD GROW, INSTABILITIES WOULD DEVELOP, AND THE PROSPECTS FOR AVERTING THE SPREAD OF NUCLEAR WEAPONS WOULD BE SERIOUSLY IMPAIRED.
3. THIS PRINCIPLE WAS EMBODIED IN THE STATUTE OF THE CONFIDENTIAL

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INTERNATIONAL ATOMIC ENERGY AGENCY, OF WHICH INDIA AND THE UNITED STATES WERE CHARTER MEMBERS. ALL COOPERATION THROUGH THE AGENCY IS REQUIRED TO BE COVERED BY INTERNATIONAL SAFEGUARDS. WHILE THESE INTERNATIONAL SAFEGUARDS WERE BEING DEVELOPED, U.S. NUCLEAR ASSISTANCE WAS CONDITIONED ON BILATERAL SAFEGUARDS. THE AGREEMENT FOR COOPERATION BETWEEN INDIA AND THE UNITED STATES WAS THE FIRST TO RECOGNIZE THE DESIRABILITY OF REPLACING BILATERAL WITH INTERNATIONAL SAFEGUARDS. INTERNATIONAL SAFEGUARDS PROVIDE BETTER ASSURANCE TO THE INTERNATIONAL COMMUNITY

WHILE AVOIDING A MULTIPLICITY OF BILATERAL SAFEGUARDS SYSTEMS. THE U.S. HAS NOW SUSPENDED ALL OF ITS BILATERAL SAFEGUARDS ARRANGEMENTS IN FAVOR OF INTERNATIONAL SAFEGUARDS.

4. AT FIRST, ONLY THE SPECIFIC MATERIALS AND EQUIPMENT INVOLVED IN INTERNATIONAL COMMERCE WERE SUBJECT TO SAFEGUARDS. IT IS NOW WIDELY RECOGNIZED THAT THE PARTIAL SAFEGUARDS RESULTING FROM THIS PRACTICE COULD NOT ADEQUATELY ASSURE THE INTERNATIONAL COMMUNITY THAT DIVERSIONS WERE NOT TAKING PLACE. WHERE UNSAFEGUARDED FACILITIES EXIST IN A COUNTRY AS WELL AS FACILITIES THAT ARE UNDER SAFEGUARDS, OR WHERE A FACILITY IS SAFEGUARDED ONLY DURING CERTAIN OPERATIONS BUT NOT OTHERS, THE SAFEGUARDS ARE LARGELY ILLUSORY. THEY MAY PROVIDE A BASIS FOR A SUPPLIER TO CLAIM THAT ITS OWN HANDS ARE CLEAN. BUT PARTIAL SAFEGUARDS DO NOT PROVIDE SUFFICIENT ASSURANCE TO BUILD INTERNATIONAL CONFIDENCE THAT A COUNTRY IS NOT DEVELOPING A MILITARY NUCLEAR PROGRAM. NOR DO THEY PERMIT THE SIMPLIFICATION AND STREAMLINING OF SAFEGUARDS THAT IS POSSIBLE WHEN ALL OF A STATE'S NUCLEAR FACILITIES ARE INTERNATIONALLY SAFEGUARDED.

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5. THAT IS WHY PRESIDENT CARTER SAID TO THE UNITED NATIONS GENERAL ASSEMBLY: "WE HAVE LEARNED THAT IT IS NOT ENOUGH TO SAFEGUARD JUST SOME FACILITIES OR SOME MATERIALS. FULL SCOPE COMPREHENSIVE SAFEGUARDS ARE NECESSARY." (ADDRESS TO UN GENERAL ASSEMBLY, OCTOBER 4, 1977)

6. IT IS ALSO THE REASON WHY THE PENDING U.S. LEGISLATION CALLS FOR COMPREHENSIVE "FULL SCOPE" SAFEGUARDS IN CONNECTION WITH AMERICAN EXPORTS, AFTER A PERIOD FOR ADJUSTMENT OF EXISTING ARRANGEMENTS.

7. BY FULL SCOPE SAFEGUARDS WE MEAN SAFEGUARDS, UNDER ONE OR MORE AGREEMENTS WITH THE IAEA, COVERING ALL PEACEFUL NUCLEAR ACTIVITIES IN THE STATE INVOLVED.

8. THERE ARE SEVERAL WAYS IN WHICH SUCH COVERAGE CAN BE ACHIEVED:

(1) PARTIES TO THE NON-PROLIFERATION TREATY OR THE TREATY FOR THE PROHIBITION OF NUCLEAR WEAPONS IN LATIN AMERICA ENTER INTO A FORMAL INTERNATIONAL COMMITMENT TO ACCEPT SUCH SAFEGUARDS, AND THEN NEGOTIATE A COMPREHENSIVE SAFEGUARDS AGREEMENT WITH THE IAEA.

(2) ANOTHER APPROACH IS THAT SUGGESTED BY THE BRITISH. A STATE, WITHOUT JOINING EITHER TREATY, CAN NEGOTIATE A COMPREHENSIVE SAFEGUARDS AGREEMENT SIMILAR TO THOSE

ENTERED INTO BY PARTIES TO THOSE TREATIES.

(3) THE THIRD APPROACH -- DE FACTO FULL SCOPE SAFEGUARDS
-- IS SET OUT IN PENDING U.S. LEGISLATION. A COUNTRY CAN
PUT ALL ITS EXISTING NUCLEAR FACILITIES UNDER INTER-
NATIONAL SAFEGUARDS BY ONE OR MORE AGREEMENTS. THE
MAINTENANCE OF SUCH COMPREHENSIVE COVERAGE ON EXISTING
AND FUTURE FACILITIES THEN BECOMES A CONDITION FOR
CONTINUING COOPERATION WITH THE UNITED STATES.
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9. OVER A HUNDRED STATES HAVE ADOPTED THE FIRST APPROACH.
(SEE LIST AT ANNEX A) THEY INCLUDE SUCH MAJOR NUCLEAR
INDUSTRIAL STATES AS JAPAN, THE FEDERAL REPUBLIC OF
GERMANY, CANADA, ITALY AND THE BENELUX COUNTRIES, SWEDEN
AND SWITZERLAND. IT SHOULD BE NOTED THAT MOST OF THESE
COUNTRIES ALSO HAVE MAJOR NUCLEAR RESEARCH CENTERS
COMPARABLE TO INDIA'S, AND HAVE EXPERIENCED NO DIFFICULTY
IN HAVING THEIR NUCLEAR MATERIAL AND FACILITIES UNDER IAEA
SAFEGUARDS.

10. APART FROM THE NUCLEAR WEAPONS STATES (THREE OF WHICH
ARE ACCEPTING BROAD SAFEGUARDS COMMITMENTS), THERE ARE
ONLY FOUR COUNTRIES OTHER THAN INDIA WITH OPERATIONAL
NUCLEAR FACILITIES THAT ARE NOT UNDER INTERNATIONAL
SAFEGUARDS: SOUTH AFRICA, ISRAEL, EGYPT, AND ARGENTINA.
WE UNDERSTAND THAT ARGENTINA AND EGYPT WILL PROBABLY
AGREE TO SAFEGUARDS ON ALL THEIR EXISTING FACILITIES,
THUS LEAVING SOUTH AFRICA, ISRAEL AND INDIA OUTSIDE A
FULL SCOPE SAFEGUARDS REGIME.

11. INDIA ALREADY HAS IAEA SAFEGUARDS ON ALL OF ITS
OPERATIONAL POWER REACTORS. TO ACHIEVE FULL SCOPE
SAFEGUARDS COVERAGE OF ITS EXISTING NUCLEAR FACILITIES
IT WOULD ONLY BE NECESSARY TO ADD THOSE AT TROMBAY
HANDLING NUCLEAR MATERIALS, THE FUEL FABRICATION PLANT
AT HYDERABAD, AND THE PREFERRED REPROCESSING PLANT (WHICH
IS ALREADY PARTIALLY UNDER IAEA SAFEGUARDS). TO MAINTAIN
FULL SCOPE COVERAGE WOULD INVOLVE PLACING NEW FACILITIES
UNDER IAEA SAFEGUARDS BEFORE THEY BECOME OPERATIONAL.

12. THE INITIAL QUALMS OF OTHER COUNTRIES THAT SAFE-
GUARDS WOULD BE BURDENSOME OR HAMPER NUCLEAR DEVELOPMENT
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APPEAR TO HAVE BEEN OVERCOME. ONE OF THE OUTSTANDING
FEATURES OF COMPREHENSIVE IAEA SAFEGUARDS AGREEMENTS
IS THE DEGREE TO WHICH THEY PROVIDE EXPLICIT ASSURANCES
AGAINST SUCH ADVERSE EFFECTS. A SUMMARY OF SUCH
ASSURANCES IS GIVEN IN ANNEX B.

13. THE EXPERIENCE OF STATES WHO HAVE ACCEPTED FULL SCOPE SAFEGUARDS SHOWS THAT THEY HAVE NOT IN FACT BEEN BURDEN-SOME OR HAMPERED PEACEFUL NUCLEAR ACTIVITIES. THUS, (A) AT A MAJOR INTERNATIONAL CONFERENCE IN 1975 ATTENDED BY VIRTUALLY ALL OF THE STATES WHO HAD ACCEPTED FULL SCOPE SAFEGUARDS VIA THE FIRST APPROACH DESCRIBED ABOVE, CONSENSUS WAS REACHED ON THE FOLLOWING CONCLUSION:

"THE CONFERENCE NOTES THAT THE VERIFICATION ACTIVITIES OF THE IAEA UNDER ARTICLE III OF THE TREATY RESPECT THE SOVEREIGN RIGHTS OF STATES AND DO NOT HAMPER THE ECONOMIC, SCIENTIFIC OR TECHNOLOGICAL DEVELOPMENT OF THE PARTIES TO THE TREATY OR INTERNATIONAL COOPERATION IN PEACEFUL ACTIVITIES."

(B) AT THAT CONFERENCE THE REPRESENTATIVE OF ONE OF THE MAJOR NUCLEAR INDUSTRIAL STATES STATED THAT IAEA'S VERIFICATION OF THE SAFEGUARDS COMMITMENTS OF THE NON-NUCLEAR-WEAPON STATES PARTIES TO THE TREATY HAD BEEN PERHAPS THE MOST SUCCESSFUL ASPECT OF THE TREATY. HE SAID HIS HAD BEEN THE FIRST COUNTRY WITH A LARGE NUCLEAR INDUSTRY TO ACCEPT THE TREATY SAFEGUARDS INSPECTION OF ALL ITS NUCLEAR FACILITIES, AND ANY INITIAL UNEASINESS IT MIGHT HAVE FELT ABOUT THE POSSIBLE INTRUSIVENESS OR ECONOMIC BURDEN HAD DISAPPEARED. THERE WAS NO EVIDENCE THAT THE APPLICATION OF SAFEGUARDS HINDERED NUCLEAR TECHNOLOGY OR NUCLEAR POWER FACILITIES IN THAT STATE, NOR HAD THEY PROVED IN ANY WAY INCOMPATIBLE WITH ITS SOVEREIGNTY.

(C) REPRESENTATIVES OF A NUMBER OF OTHER STATES MADE CONFIDENTIAL

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STATEMENTS TO THE SAME EFFECT. JAPAN, WHICH HAD HAD THE LONGEST AND MOST EXTENSIVE EXPERIENCE IN BEING SAFEGUARDED PRIOR TO THE NPT, SUBSEQUENTLY JOINED THAT TREATY AND AGREED TO ACCEPT FULL SCOPE SAFEGUARDS.

14. THE ACCEPTANCE OF FULL SCOPE SAFEGUARDS IS IN FACT LIKELY TO FACILITATE NUCLEAR DEVELOPMENT, BY ELIMINATING A NUMBER OF THE PROBLEMS FACED IN IMPORTING NUCLEAR RELATED MATERIALS AND EQUIPMENT -- FOR EXAMPLE, WHERE THE IMPORTED ITEMS ARE OF A TYPE THAT SUPPLIER COUNTRIES WILL EXPORT ONLY IF THE FACILITY IN WHICH THEY ARE USED IS SAFEGUARDED. THIS CONDITION WOULD OBVIOUSLY BE MET AND THE NEED FOR ASSURANCES AS TO WHERE THE ITEM WOULD BE USED ELIMINATED.

15. THE ACCEPTANCE OF FULL SCOPE SAFEGUARDS WOULD NOT INVOLVE DISCRIMINATORY TREATMENT OF INDIA. IN ADDITION TO THE VERY WIDESPREAD ACCEPTANCE OF SUCH SAFEGUARDS BY OTHER STATES DESCRIBED ABOVE, WE NOTE THAT THE UNITED

STATES AND THE UNITED KINGDOM HAVE BOTH NEGOTIATED AGREEMENTS WITH THE INTERNATIONAL ATOMIC ENERGY AGENCY PERMITTING IT TO APPLY ITS SAFEGUARDS TO THEIR CIVIL NUCLEAR ACTIVITIES. RECENTLY THE FRENCH ALSO STARTED SUCH A NEGOTIATION. THESE NEGOTIATIONS ARE SERIOUSLY INTENDED TO ALLAY ANY CONCERNS THAT THE STATES INVOLVED ARE OBTAINING A DISCRIMINATORY ADVANTAGE IN THE DEVELOPMENT OR ENJOYMENT OF THEIR NUCLEAR PROGRAMS OR ARE ASKING ANY STATE TO ACCEPT SAFEGUARDS THEY CANNOT ACCEPT ON THEIR OWN CIVIL PROGRAMS.

16. AT THE SAME TIME, THE UNITED STATES IS MAKING INTENSIVE EFFORTS TO PERSUADE THE SOVIET UNION TO CURB "VERTICAL" NUCLEAR PROLIFERATION AND TO ACHIEVE AT LONG CONFIDENTIAL

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LAST A COMPREHENSIVE BAN ON THE TESTING OF NUCLEAR EXPLOSIVES. THESE EFFORTS, TOO, SHOW OUR DEDICATION TO ENSURING THE AVOIDANCE OF DISCRIMINATION IN NUCLEAR ARMS CONTROL.

ANNEX A.

17. THE 103 COUNTRIES WITH TREATY COMMITMENTS TO ACCEPT FULL SCOPE SAFEGUARDS: AFGHANISTAN, AUSTRALIA, AUSTRIA, THE BAHAMAS, BARBADOS, BELGIUM, BENIN, BOLIVIA, BOTSWANA, BULGARIA, BURUNDI, CAMBODIA, CAMEROON, CANADA, CENTRAL AFRICAN REPUBLIC, CHAD, REPUBLIC OF CHINA, COLOMBIA, COSTA RICA, CYPRUS, CZECHOSLOVAKIA, DENMARK, DOMINICAN REPUBLIC, ECUADOR, EL SALVADOR, ETHIOPIA, FIJI, FINLAND, GABON, THE GAMBIA, GERMAN DEMOCRATIC REPUBLIC, FEDERAL REPUBLIC OF GERMANY, GHANA, GREECE, GRENADA, GUATEMALA, HAITI, HOLY SEE, HONDURAS, HUNGARY, ICELAND, IRAN, IRAQ, IRELAND, ITALY, IVORY COAST, JAMAICA, JAPAN, JORDAN, KENYA, REPUBLIC OF KOREA, LAOS, LEBANON, LESOTHO, LIBERIA, LIBYA, LUXEMBOURG, MADAGASCAR, MALAYSIA, MALDIVES, MALTA, MALI, MAURITIUS, MEXICO, MONGOLIA, MOROCCO, NEPAL, NETHERLANDS, NEW ZEALAND, NICARAGUA, NIGERIA, NORWAY, PANAMA, PARAGUAY, PERU, PHILIPPINES, POLAND, PORTUGAL, ROMANIA, RWANDA, SAN MARINO, SENEGAL, SIERRA LEONE, SINGAPORE, SOMALIA, SUDAN, SURINAM, SWAZILAND, SWEDEN, SWITZERLAND, SYRIAN ARAB REPUBLIC, THAILAND, TOGO, TONGO, TRINIDAD AND TOBAGO, TUNISIA, UPPER VOLTA, URUGUAY, VENEZUEL", VIETNAM, WESTERN SAMOA, YUGOSLAVIA, ZAIRE.

18. ANNEX B. SUMMARY OF PROVISIONS IN IAEA SAFEGUARDS AGREEMENTS ENSURING NON-INTERFERENCE WITH PEACEFUL NUCLEAR DEVELOPMENT.

19. ONE OF THE OUTSTANDING FEATURES OF INFCIRC/153 (THE IAEA MODEL FOR FULL SCOPE SAFEGUARDS PURSUANT TO THE NPT); IS THE DEGREE TO WHICH IT PROVIDES ASSURANCES AGAINST INTERFERENCE WITH OR HAMPERING OF PEACEFUL NUCLEAR PROGRAMS AND DEVELOPMENT (SOME OF THESE ASSURANCES ARE ALSO

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CONTAINED IN INFCICR/66-(REV.2). THUS SECTION 4 REQUIRES THAT SAFEGUARDS SHALL BE IMPLEMENTED IN A MANNER DESIGNED TO AVOID HAMPERING THE ECONOMIC AND TECHNOLOGICAL DEVELOPMENT OF THE STATE OR INTERNATIONAL COOPERATION IN THE FIELD OF PEACEFUL NUCLEAR ACTIVITIES, INCLUDING INTERNATIONAL EXCHANGE OF NUCLEAR MATERIAL" AND "TO AVOID UNDUE INTERFERENCE IN THE STATE'S PEACEFUL NUCLEAR ACTIVITIES, AND IN PARTICULAR IN THE OPERATION OF THE FACILITIES." SECTION 5 PROVIDES THAT THE AGENCY SHALL TAKE EVERY PRECAUTION TO PROTECT COMMERCIAL AND INDUSTRIAL SECRETS AND OTHER CONFIDENTIAL INFORMATION COMING TO ITS KNOWLEDGE IN THE IMPLEMENTATION OF THE AGREEMENT. SECTION 8 PROVIDES THAT THE AGENCY SHALL REQUIRE ONLY THE MINIMUM AMOUNT OF INFORMATION AND DATA CONSISTENT WITH CARRYING OUT ITS RESPONSIBILITIES UNDER THE AGREEMENT, AND THAT INFORMATION PERTAINING TO FACILITIES SHALL BE THE MINIMUM NECESSARY FOR SAFEGUARDING NUCLEAR MATERIAL SUBJECT TO SAFEGUARDS UNDER THE AGREEMENT. SECTION 9 PROVIDES FOR SECURING THE CONSENT OF THE STATE TO THE DESIGNATION OF AGENCY INSPECTORS TO THAT STATE; SECTION 31 PROVIDES THAT THE AGENCY SHALL MAKE FULL USE OF THE STATE'S SYSTEM OF ACCOUNTING AND CONTROL AND SHALL AVOID UNNECESSARY DUPLICATION OF SUCH ACTIVITIES. SECTION 76 (D) PROVIDES THAT IN THE EVENT OF THE STATE CONCLUDING THAT ANY UNUSUAL CIRCUMSTANCES REQUIRE EXTENDED LIMITATIONS ON ACCESS BY THE AGENCY, THE STATE AND THE AGENCY SHALL PROMPTLY MAKE ARRANGEMENTS WITH A VIEW TO ENABLING THE AGENCY TO DISCHARGE ITS SAFEGUARDS RESPONSIBILITIES IN THE LIGHT OF THESE LIMITATIONS. AND SECTION 78 PROVIDES THAT THE NUMBER, INTENSITY, DURATION AND TIMING OF ROUTINE INSPECTIONS SHALL BE KEPT TO THE MINIMUM CONSISTENT WITH THE EFFECTIVE IMPLEMENTATION OF THE SAFEGUARDS PROCEDURES SET FORTH IN THE AGREEMENT. VANCE
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